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March 12, 2013

Ms. Pam Daly
4775 County Road P39
Fort Calhoun, NE 68023

Re: *File No. 12-M-145; Washington County Board; Daly/Graeve*

Dear Ms. Daly:

We are in the process of reviewing various Open Meetings files which remain pending from 2012. In January, 2012, you submitted a complaint under the Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2008, Cum. Supp. 2012), to Washington County Attorney Shurie Graeve regarding the Washington County Board (the "Board") and Washington County Clerk Merry Truhlsen (the "Clerk"). Subsequently, Ms. Graeve forwarded your complaint to this office for our review. We have now completed that review and our conclusions are set out below.

Your complaint involved two issues under the Open Meetings Act. First, you complained that the minutes of Board meetings which were published in the local newspaper did not contain information on how individual members of the Board voted on particular motions in contravention of § 84-1413 which requires that "the record [of a public meeting] shall state how each member voted or if the member was absent and not voting." We understand that the Board minutes on the county's website contain information on how each member of the Board voted on particular motions, as do the Board minutes which are available for inspection by the public at the county offices. That information was simply omitted from the version published in the newspaper.

The Open Meetings Act does not require public bodies to publish their minutes in a newspaper. Instead, minutes for all public meetings "shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier." Neb. Rev. Stat. § 84-1413. As a result, we do not believe that the Board was required to publish information in the local newspaper as to how individual members of the Board voted on particular motions so long as that information was available in the minutes provided for public inspection. Nevertheless, we have discussed this matter with the Clerk, and we understand that she is now including

information as to how individual members voted in the minutes which are published in the newspaper.

Your second Open Meetings complaint involved public access to documents discussed by the Board at a Board meeting. You complained that such documents were not available in the meeting room and had to be requested from the Board during the meeting.

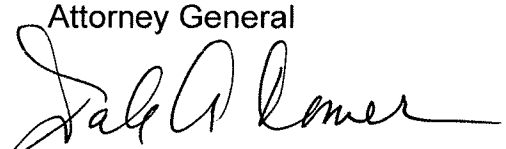
Section 84-1412 (8) requires public bodies to make "at least one copy of all reproducible written material to be discussed at an open meeting" available at the meeting. From our discussions with the Clerk, it appears that she currently places one copy of materials to be discussed at each meeting along with a copy of the materials disseminated to the Board prior to the meeting on a table at the back of the meeting room, and those materials are available to the public. If additional documents are discussed by the Board during a meeting, copies of those documents are made available to the public upon request. Those current practices appear to comply with the requirements of the Open Meetings Act.

Your Open Meetings complaint also included an ethics complaint involving the Clerk. That complaint was apparently referred to the Nebraska Political Accountability and Disclosure Commission for review in addition to this office. Therefore, we will not review that issue further.

Based upon the discussion above, there is no need for further action by this office in connection with your Open Meetings complaint, and we are closing this file. If you disagree with our analysis, you may wish to consult with your private attorney to determine what, if any, additional remedies might be available to you.

Sincerely,

JON BRUNING
Attorney General



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